

TEXT OF PROPOSED REGULATIONS

In the following, underline indicates added text and strikethrough indicates deleted text.

Section 3000 is amended to alphabetically merge the definition below with those that exist in the regulations.

3000. Definitions.

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Program failure means any inmate who generates a significant disciplinary history within 180 days of the date of discovery for the most current rule violation report. A guilty finding for two Serious Rules Violation Reports or one serious and two administrative Rules Violations Reports within 180 days is reasonable evidence of a significant disciplinary history and may be considered a program failure.

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Significant work related disciplinary history means a guilty finding for two work-related serious rule violation reports or one serious and two administrative work-related rule violation reports within the last 180 days from the date of the current work-related disciplinary offense.

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Section 3005 is amended to read:

3005. Conduct.

Subsection 3005(a) and b are unchanged.

Subsections 3005(c) is amended to read:

(c) Force ~~and-or~~ Violence. Inmates shall not willfully commit or assist another person in the commission of a violent injury to any person or persons, including self mutilation or attempted suicide, nor attempt or threaten the use of force ~~and-or~~ violence upon another person. Inmates shall not willfully attempt to incite others, either verbally or in writing, or by other deliberate action, to use force or violence upon another person.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 242, 295 through 300.3, 2931 and 5054, Penal Code.

Section 3044 is amended to read:

3044. Inmate Work and Training Incentive Groups.

Subsection 3044(a) is unchanged.

Subsections 3044(b)(1) through (b)(4) are unchanged.

Subsection 3044(b)(5) is amended to read:

(5) Work Group C: Voluntary unassigned. Zero credit.

(A) An inmate who refuses to accept or perform in a work/training assignment, or who is deemed a program failure as defined in Section 3000, and who is placed on non-credit earning status by a classification committee ~~for frequent work/training violations~~, shall earn zero worktime credits.

(B) An inmate shall remain in zero credit earning status until classified for placement in a credit qualifying work/training assignment (A-1 or B), or placement on an assignment waiting list (A-2). An inmate must submit a written request for reclassification to be considered for assignment and removal from Work Group C no earlier than 30 days from date of placement. The inmate shall be scheduled for a hearing within 30 days of receipt of the written request.

Subsections 3044(b)(6) through (b)(8) are unchanged.

Subsection 3044(c) is amended to read:

(c) Privileges. Privileges for each work/training incentive group shall be those privileges earned by the inmate. Inmate privileges are administratively authorized activities and benefits required of the director, by statute, case law, governmental regulations, or executive orders. Inmate privileges shall be governed by an inmate's behavior, custody classification and assignment. A formal request or application for privileges is not required unless specified otherwise in this section. Institutions may provide additional incentives for each privilege group, subject to availability of resources and constraints imposed by security needs.

(1) To qualify for privileges generally granted by this section, an inmate shall comply with rules and procedures and participate in assigned work/training activities.

(2) ~~All or a portion of p~~Privileges available to a work/training incentive group may be denied, modified, or temporarily suspended by a hearing official at a disciplinary hearing upon a finding of an inmate's guilt for a disciplinary offense as described in sections 3314 and 3315 of these regulations or by a classification committee action changing the inmate's custody classification, work/training group, privilege group, or institution placement.

Subsections 3044(c)(3) through (c)(9) are unchanged.

Subsection 3044(d) is unchanged.

Subsection 3044(e) is amended to read:

(e) Privilege Group B:

Subsection 3044(e)(1) is amended and portions of the text are relocated to subsection 3044(e)(1)(A):

(1) Criteria: , any of the following: Half time work/training assignment as defined in section 3044(a) or involuntarily unassigned as defined in section 3044(a) or involuntarily unassigned as defined in section 3044(b).

(A) Half-time work/training assignment as defined in section 3044(a) or involuntarily unassigned as defined in section 3044(a) or involuntarily unassigned as defined in section 3044(b).

Subsection 3044(e)(1)(B) is amended to read:

(B) A hearing official may temporarily place an inmate into the group as a disposition pursuant to section 3314 or 3315.

Subsection 3044(e)(2) is amended to read:

(2) ~~Any inmate classified and assigned to Privilege Group B may receive a blue CDC 130 A Privilege Card with photo.~~Any inmate in privilege group B shall not be issued a privilege card.

Subsection 3044(e)(3) is unchanged.

Subsection 3044(f) is amended to read:

(f) Privilege Group C:

(1) Criteria, any of the following:

(A) The inmate who refuses to accept or perform in a work/training assignment or is deemed a program failure as defined in section 3000.

(B) A hearing official may temporarily place an inmate into the group as a disposition pursuant to section 3314 or 3315~~places the inmate into the group.~~

Subsections 3044(f)(1)(C) through (f)(1)(G) are unchanged.

Subsections 3044(g), (h), and (i) are unchanged.

NOTE: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2935, 5005, 5054 and 5068, Penal Code; and *In re Monigold*, 205 Cal.App.3d 1224.

3062. Inmate Grooming Standards.

Subsections 3062(a) through (m) are unchanged.

Subsection 3062(n) has been amended, relocated to Section 3000, and placed in alphabetical order:

~~(n) Program failure, as used in this section, shall be defined as any general population inmate who generates a significant disciplinary history within the last 120 days from the current date. A guilty finding for two Serious Rules Violations Reports or any three Rules Violations Reports (serious or administrative) within the last 120 days from the current date is reasonable evidence of a significant disciplinary history and shall be considered a program failure. An inmate considered to be a program failure shall be referred to the classification committee for review of appropriate housing and program placement.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3313. Classification of Rules Violation Report and Notice of Pending Charges.

Subsection 3313(a) is unchanged.

Subsection 3313(b) is amended to read:

(b) Staff who review or classify a CDC Form 115 shall not serve as the disciplinary hearing ~~officer~~ official for that rule violation.

Subsection 3313(c) is unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2079, 2932 and 5054, Penal Code; Hamilton on Habeas Corpus (1991) 230 Cal. App. 3rd 1952.

3314. Administrative Rule Violations.

Subsection 3314(a) is unchanged.

Subsections 3314(b) through (h) are amended to read:

(b) Administrative rule violations shall be heard by a disciplinary hearing ~~officer~~ official not below the level of a correctional lieutenant, or an experienced correctional counselor I, parole agent I or correctional sergeant.

(c) The inmate does not have the right to call witnesses or to have an investigative employee assigned.

(d) If deemed necessary by the hearing ~~officer~~official, the hearing shall be suspended and the inmate shall be provided staff assistance pursuant to section 3318(b).

(e) The hearing ~~officer~~official may find the inmate guilty and order one or more of the following dispositions:

(1) Counseling, with or without a reprimand.

(2) Suspension of privileges specified by the hearing ~~officer~~official for no more than a 30-day period starting the date ~~of the disciplinary hearing~~the rule violation report was adjudicated.

(3) Placement into privilege group B or C for no more than a 30-day period starting the date the rule violation report was adjudicated.

~~(34)~~ Confinement to quarters pursuant to section 3333 for one or more weekends and/or holidays, not to exceed ten days and not to be imposed with subsection (5) or suspended confinement.

~~(45)~~ Assignment to no more than 40 hours of extra duty.

~~(56)~~ Confinement to quarters for a period not to exceed five consecutive days. Inmates serving confinement to quarters shall be released to attend work and program assignments.

~~(67)~~ Placement of a restriction or hold on the inmate's trust account for rule violations involving state or personal property as described in section 3190 when the inmate refuses to pay for the repair or replacement of such property or canteen.

~~(78)~~ Suspension of all or part of any disposition for up to 90 days based on the inmate's acceptance of and compliance with conditions specified for suspension of the disposition.

~~(89)~~ Imposition of all or part of an existing suspended disposition when the current rule violation is also a violation of conditions imposed at the time of the suspension.

(f) The hearing ~~officer~~-official may find the inmate guilty of the charge but, in the interest of justice or because of extenuating circumstances, dismiss the formal rule violation charge and report the misconduct as a custodial counseling on a CDC Form 128-A pursuant to section 3312. In such cases the CDC Form 115 shall be processed pursuant to section 3326.

(g) The hearing ~~officer~~-official may find the inmate not guilty and dismiss the charges.

(h) The hearing ~~officer~~-official may designate the rule violation serious if it is determined in the fact-finding phase of an administrative violation hearing that the misconduct is a serious rule violation. The disciplinary hearing ~~officer~~-official shall terminate the hearing and issue a serious CDC Form 115 to the inmate.

Subsection 3314(i) is adopted to read:

(i) Classification Committee Review. When the hearing official determines that an inmate is a program failure, as defined in section 3000, the hearing official shall refer the administrative disciplinary action for possible review by a classification committee to affirm or modify the inmates program, work/privilege group, or housing assignment.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3315. Serious Rule Violations.

Subsections 3315(a) through (e) are unchanged.

Subsections 3315(f)(1) through (f)(4) are unchanged.

Subsection 3315(f)(5) is amended to read:

(5) The disposition may or when mandated shall include assessment of one or more of the following:

(A) Any combination of penalties authorized for administrative rule violations in section 3314(e).

(B) Suspension of privileges specified by the hearing official for no more than a 90-day period starting the date of the disciplinary hearing the rule violation report was adjudicated. The suspension of privileges for violations of subsections 3323(c)(7) and 3323(d)(6) shall be assessed as follows:

1. Thirty days for the first offense.
2. Sixty days for the second offense.
3. Ninety days for the third offense.

(C) Placement into privilege group B or C for no more than a 90-day period starting from the date the rule violation report was adjudicated.

(ED) Disciplinary detention or confinement to quarters as provided in sections 3330 and 3333 for not more than a ten-day period. If facility security will not be jeopardized, the inmate shall be released to attend work and program assignments.

1. Second offense violations of subsections 3323(c)(7) and 3323(d)(6) shall result in confinement to quarters for five days.

2. Third offense violations of subsections 3323(c)(7) and 3323(d)(6) shall result in confinement to quarters for 10 days.

(DE) Referral to a classification committee for consideration of placement in Work Group C.

(EF) Parole violators returned-to-custody who violate subsections 3323(c)(7) and 3323(d)(6) shall be referred to the Board of Prison Terms for consideration of extension of revocation time.

(FG) Suspension of all or part of dispositions other than credit forfeitures, ordered random drug testing and classification committee referrals, for up to six months based on the inmate's compliance with the conditions specified for suspension.

(GH) Imposition of all or part of an existing suspended disposition when the current rule violation is a violation of conditions specified in a suspended disposition. Imposition

of a suspended disposition shall not include confinement to quarters or disciplinary detention for a period exceeding ten days except as provided in section 3322.

(~~H~~I) For a violation of subsection 3323(c)(7), there shall be a loss of visits for one year to be followed by non-contact visits for two years.

(~~I~~J) Loss of visits to be followed by non-contact visits for violations of subsection 3323(d)(6) shall be as follows:

1. Loss of visits for 90 days, to be followed by non-contact visits for 90 days for the first offense.

2. Loss of visits for 90 days, to be followed by non-contact visits for 180 days for the second offense.

3. Loss of visits for 180 days, to be followed by non-contact visits for 180 days for the third offense.

(~~J~~K) Violation of subsections 3323(c)(7) and 3323(d)(6) shall result in:

1. For the first offense, the inmate shall be required to attend Alcoholic Anonymous or Narcotic Anonymous meetings or assigned to a substance abuse education program to the extent such programs are available in the institution/facility.

2. For the second offense, the inmate shall be referred for endorsement to a substance abuse program, provided that program eligibility criteria is met.

3. For the third offense, the inmate shall be referred for endorsement to a substance abuse program, provided that program eligibility criteria is met, and mandatory treatment shall be a condition of parole.

Subsection 3315(g) is unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 295 through 300.3, 530, 532, 646.9, 647, 653m, 2931, 2932, 2933, 4573.6, 5054, 5068, and 12020, Penal Code.

3323. Disciplinary Credit Forfeiture Schedule.

Subsections 3323(a) through (f) are unchanged.

Subsection 3323(g) is amended to read:

(g) Division "E" offenses; credit forfeiture of 31-60 days.

(1) Theft, embezzlement, destruction, misuse, alteration, damage, unauthorized acquisition or exchange of personal property, state funds or state property valued at more than \$50 but less than \$400.

(2) Possession or manufacture of alcoholic beverages or intoxicating substances in a community-access facility.

(3) Consensual participation in sodomy or oral copulation.

(4) Forgery or falsification or alteration of any government document or record not affecting an inmate's term of imprisonment.

(5) Gambling in an institution, community correctional facility, or camp other than a community-access facility.

(6) Refusal to provide blood specimens, a saliva sample, or palm and thumb print impressions pursuant to Penal Code sections 295 through 300.3, after receiving written notification in accordance with PC section 298.1 that they must be provided.

(7) Work related offenses:

(a) Refusal to work with a significant work-related disciplinary history:

(b) Failure/refusal to perform assigned work with a significant work-related disciplinary history:

(c) Failure to participate in an assigned work/training program with a significant work related disciplinary history.

(78) Commission of any misdemeanor offense not listed in this schedule and not specified as administrative in section 3314.

(89) Conspiracy to commit any Division "E" offense.

Subsections 3323(h) through (k) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 148, 243, 295 through 300.3, 647, 2932, 2933, 4573.6, 4600, 5054, and 12020, Penal Code.

3376. Classification Committees.

Subsections 3376(a) through (c) are unchanged.

Subsection 3376(d) is amended to read:

(d) Classification committee functions:

(1) Initial Classification Committees shall:

(A) Evaluate case factors and assist the inmate to understand facility expectations, available programs, and resources.

(B) Initiate an education, vocational training, or work program; designate a credit earning and privilege group; and assign a custody designation for each inmate.

(C) Refer complex cases to the ICC or FCC.

(D) Recommend transfer of a new arrival determined to be inappropriately placed.

(E) Grant work credits to which the inmate is entitled while in transit.

(2) Unit Classification Committees shall:

(A) Review each inmate's case at least annually to consider the accuracy of the inmate's classification score, custody designation, program, work and privilege group, and facility placement, including recommendation for transfer. A parole violator's first annual review may be delayed for up to five months so that it will coincide with classification score updates.

(B) Change in inmate's work/privilege group.

(B) Conduct post board classification on an inmate within 15 days of receipt of official notice of a Board of Prison Terms' decision regarding the inmate.

(E) Act on an inmate's request for restoration of forfeited credits for less than Division C offenses in accordance with section 3327.

(3) Institution and Facility Classification Committees shall:

(A) Recommend transfer of inmates.

(B) Act on cases referred by lower committees.

(C) Review inmate requests for meritorious sentence reduction to determine compliance with Penal Code section 2935.

(D) Make referrals and recommendations through the chief, classification services, for cases requiring Departmental Review Board (DRB) decisions.

(E) Change an inmate's [work](#)/privilege group.

(4) Camp classification committees shall perform all functions designated above for unit and initial classification committees.

NOTE: Authority cited: Sections 3303 and 3309, Welfare & Institutions Code; and Sections 5058 and 6252, Penal Code. Reference: Sections 2933, 5054 and 5068, Penal Code.